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# Property Taxation. Seismic Safety Construction Exclusion

Official Title and Summary Prepared by the Attorney General

**PROPERTY TAXATION. SEISMIC SAFETY CONSTRUCTION EXCLUSION. LEGISLATIVE CONSTITUTIONAL AMENDMENT.** Under the present provisions of the Constitution, real property is reassessed for taxation purposes when new construction occurs. An exception is made for specified reconstruction done after a disaster. This measure adds an additional exception where an unreinforced masonry bearing wall is reconstructed or improved. This measure excludes the portion of such reconstruction or improvement necessary to comply with any local ordinance relating to seismic safety from reassessment during the first 15 years following the reconstruction or improvement. Summary of Legislative Analyst's estimate of net state and local government fiscal impact: Unknown local government loss of property tax revenues and minor to moderate increased appraisal costs. Unknown increased state costs to offset revenue losses of school and community college districts and possibly other local governments for property tax revenue loss. Minor increase in state income tax revenue due to lower property tax deduction.

## Final Vote Cast by the Legislature on SCA 14 (Proposition 23)

Assembly: Ayes 72  
Noes 0

Senate: Ayes 31  
Noes 0

## Analysis by the Legislative Analyst

### Background

Article XIII A was added to the California Constitution by Proposition 13 on June 6, 1978. This article provides that real property (that is, land and structures) generally shall be reappraised for property tax purposes when the property is newly constructed or when there is a change in the ownership of the property. Otherwise, the value of the property for property tax purposes may not be increased by more than 2 percent per year.

Current law requires county assessors to appraise all new construction (that is, determine the new construction value for property tax purposes), based on the structure's fair market value at the time construction is completed. In addition, if on March 1st (the lien date) construction is in progress but has not been completed, current law requires the assessor to appraise the construction based on the fair market value of the work which has been completed. In the case of newly constructed *modifications* or *additions* to existing structures, only that portion of the property which is new or has undergone modification is subject to reappraisal.

Current law also permits cities and counties to enact ordinances which require the reconstruction of buildings which have been found to be unsafe in the event of an earthquake. Four cities—Los Angeles, Long Beach, Santa Ana, and Santa Rosa—have enacted such ordinances. When a building is reconstructed to comply with a local ordinance, the assessed value of the building for property tax purposes is increased by the fair market value of the new construction. Alternatively, when a building is condemned and demolished because it does not comply with local ordinances, the value of the building is removed from the property tax rolls.

### Proposal

This measure amends the "new construction" provisions of Article XIII A. Specifically, the measure provides that when a building is reconstructed or modified to comply with a local earthquake safety ordinance the reconstructed or modified portion shall not be considered "new construction" for property tax purposes.

This exemption from the "new construction" provision of Article XIII A would apply only to buildings with "unreinforced masonry bearing walls." These are walls that are built with bricks, cement blocks, or other types of masonry material, which do not have steel reinforcing bars.

This exemption from property tax reappraisal would be in effect during the first 15 years following reconstruction of a building, provided the building remains under the same ownership. If ownership of the property changes during this 15-year period, the property would then be appraised at full market value, including the value of the earthquake safety improvements.

### Fiscal Effect

This measure would reduce property tax revenues to local governments, since modifications or improvements to buildings that are made in order to comply with earthquake safety ordinances would not be added to the property tax rolls for a period of years. The amount of the loss cannot be determined at this time. It would depend upon the value of improvements made by property owners that are necessary to comply with local earthquake safety ordinances.

The measure also would affect state expenditures and revenues. It would do so in two ways. First, the state would automatically incur additional, but unknown, costs be-

cause under current law the state must replace property tax revenues lost by local school districts. Second, state income tax revenues would increase because property owners affected by this measure would have smaller prop-

erty tax payments to deduct from income on their state income tax returns. These additional revenues, however, would be considerably less than the total reductions in property tax revenues.

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### Text of Proposed Law

This amendment proposed by Senate Constitutional Amendment 14 (Statutes of 1984, Resolution Chapter 2) expressly amends the Constitution by amending a section thereof; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be inserted or added are printed in *italic type* to indicate that they are new.

#### PROPOSED AMENDMENT TO ARTICLE XIII A, SECTION 2

~~Section~~ *SEC. 2.* (a) The full cash value means the county assessor's valuation of real property as shown on the 1975-76 tax bill under "full cash value" or, thereafter, the appraised value of real property when purchased, newly constructed, or a change in ownership has occurred after the 1975 assessment. All real property not already assessed up to the 1975-76 full cash value may be reassessed to reflect that valuation. For purposes of this section, the term "newly constructed" shall not include real property which is reconstructed after a disaster, as declared by the Governor, where the fair market value of such real property, as reconstructed, is comparable to its fair market value prior to the disaster. *Also, the term "newly constructed" shall not include the portion of reconstruction or improvement to a structure, constructed of unreinforced masonry bearing wall construction, necessary to comply with any local ordinance relating to*

*seismic safety during the first 15 years following that reconstruction or improvement.*

(b) The full cash value base may reflect from year to year the inflationary rate not to exceed 2 percent for any given year or reduction as shown in the consumer price index or comparable data for the area under taxing jurisdiction, or may be reduced to reflect substantial damage, destruction or other factors causing a decline in value.

(c) For purposes of subdivision (a), the Legislature may provide that the term "newly constructed" shall not include the construction or addition of any active solar energy system.

(d) For purposes of this section, the term "change in ownership" shall not include the acquisition of real property as a replacement for comparable property if the person acquiring the real property has been displaced from the property replaced by eminent domain proceedings, by acquisition by a public entity, or governmental action which has resulted in a judgment of inverse condemnation. The real property acquired shall be deemed comparable to the property replaced if it is similar in size, utility, and function, or if it conforms to state regulations defined by the Legislature governing the relocation of persons displaced by governmental actions. The provisions of this subdivision shall be applied to any property acquired after March 1, 1975, but shall affect only those assessments of that property which occur after the provisions of this subdivision take effect.

**Polls are open from 7 a.m. until 8 p.m.**

## Argument in Favor of Proposition 23

Property owners who are forced by local governments to bring unreinforced masonry buildings up to earthquake safety standards should no longer be penalized by a reassessment of their property at a higher value after that work is done.

Under existing provisions of the California Constitution, a property owner who is required by a local government to reconstruct or fortify all or part of his or her unreinforced masonry building in order to meet specific earthquake safety standards is then hit by a tax increase just because he or she did the necessary work. If you agree that this very unfair situation should be eliminated, vote "yes" on Proposition 23.

Unreinforced masonry buildings are the types of buildings which are the first to collapse when a major earthquake strikes. Most of these structures were built before 1933, when building safety experts and lawmakers recognized this particular danger associated with unreinforced masonry construction. These buildings are located in populous urban centers as well as in rural areas. In fact, a large number of the buildings which collapsed during the 1983 Coalinga earthquake were constructed of unreinforced masonry.

We are all well aware of the earthquake predictions that have been made for various regions within California. An overwhelming number of studies show that we should not be asking "if" we will be hit by a major earthquake in our

lifetime. Rather, the big question is, "When will the earthquake strike, and how well will we be prepared for it?"

In 1979 the State Legislature recognized the seriousness of this question when it enacted a law to encourage local governments to adopt earthquake safety ordinances that require rehabilitation of pre-1933 masonry buildings. Many local governments have already done this, or are in the process of adopting such an ordinance, and property owners are complying with the requirements although the work is costly.

Proposition 23 can only benefit taxpayers. First, unless these buildings are upgraded to conform to new local earthquake safety ordinances, they will most likely be demolished, and this will result in a loss to the revenue tax base. Secondly, if the buildings are not upgraded, resulting earthquake damage will ultimately cost the taxpayers far more than the cost of eliminating property tax reassessment for the upgrading which can be done now.

In the interest of fairness, we urge you to vote "yes" on Proposition 23.

HERSCHEL ROSENTHAL  
State Senator, 22nd District

HAL BERNSON  
Councilman, 12th District, Los Angeles

STANLEY SCOTT  
Chairman, Seismic Safety Commission

## Rebuttal to Argument in Favor of Proposition 23

*But I was thinking of a plan  
To dye one's whiskers green,  
And always use so large a fan  
That they could not be seen.*

—Lewis Carroll, *Through the Looking Glass*

This quotation exemplifies both Proposition 23 and the argument in favor of Proposition 23. Proponents of Proposition 23 are attempting to make an absurdly unfair exception to the "newly constructed/change in ownership" provision in Proposition 13 and gloss it over as a measure designed to ensure fairness and promote public safety. The argument in favor uses the terms "property owners" and "buildings" while conveniently failing to mention that they are talking about *commercial* property owners and *commercial* buildings. To give a special tax break for com-

mercial property while subjecting homeowners to reassessment and higher taxes when property is sold is grossly unfair. To present this "in the interest of fairness" is indeed as absurd as "to dye one's whiskers green." Voters should recognize this and reject Proposition 23.

The provision that allows for reassessment and higher taxes when property is newly constructed or there has been a change in ownership is what is unfair. It needs to be eliminated in its entirety. Making special exceptions for certain classes of commercial property only creates more unfairness.

Proposition 23 must be defeated so that the Legislature will realize that Proposition 13 must be revised so that *all* property owners are treated equitably. In the interest of fairness, I urge you to vote NO! on Proposition 23.

TIMOTHY D. WEINLAND  
Attorney at Law

## Argument Against Proposition 23

Proposition 23 is another attempt to create a piecemeal exception to the provision in Proposition 13 that allows for reassessment of newly constructed property or property that has had a change in ownership. It is designed to benefit corporations and wealthy individuals owning commercial property while ignoring the injustice done to the average homeowner by the "newly constructed/change in ownership" clause of Proposition 13 (Article XIII A of the California State Constitution). Proposition 23 therefore deserves to be defeated by voters.

Proposition 23 would exclude from the term "newly constructed," and therefore exclude from reassessment, the portion of reconstruction or improvement to a structure necessary to comply with any local ordinance relating to seismic safety for the first 15 years following the reconstruction or improvement. Without making mention of commercial property, Proposition 23 gives a special tax break to owners of commercial property, since most seismic safety ordinances apply to commercial property.

While providing special treatment for commercial property, Proposition 23 ignores the injustice done to homeowners by Proposition 13. Under the "newly constructed/change in ownership" provision, when there has been a change in ownership in real property, it is subject to reassessment and, therefore, higher taxes. One homeowner can be forced to pay property taxes that are much higher than another homeowner with property of identi-

cal value for the sole reason that the properties were purchased at different times. Until this blatant injustice is corrected, owners of commercial property deserve no special treatment when they are required to comply with seismic safety ordinances.

Proposition 23 is similar to Proposition 7 in the 1982 General Election, which passed the Legislature without opposition but which was overwhelmingly defeated by voters due to the singlehanded efforts of this author. Proposition 7 would have exempted construction of fire alarm systems and sprinkler systems on commercial property from the definition of the term "newly constructed." Voters easily saw through the façade that presented Proposition 7 as a public safety measure and soundly rejected it.

In Proposition 23, voters are presented with the same type of façade and should give it the same treatment: A RESOUNDING DEFEAT!

The Legislature needs to hear the following message loud and clear: "DON'T GIVE SPECIAL TAX ADVANTAGES TO THE OWNERS OF COMMERCIAL PROPERTY UNLESS YOU GIVE THE SAME ADVANTAGES TO HOMEOWNERS!" The defeat of Proposition 23 will help to send that message. VOTE NO ON PROPOSITION 23!

**TIMOTHY D. WEINLAND**  
*Attorney at Law*

## Rebuttal to Argument Against Proposition 23

The argument against Proposition 23 is totally inaccurate in its assessment of who will benefit from the exemption.

In California there are over 150,000 persons residing in these buildings who must be protected from death and injury, as well as from the economic impact that reinforcement and reassessment would create. The cost of replacing this housing is prohibitive, so the real purpose of Proposition 23 is to keep the cost of these reinforced buildings affordable to the tenants.

Only the cost of reinforcement will be exempt, and nothing else. The exemption is removed when the property is sold, and a time limit of 15 years is placed on the exemption so that the building owner can recoup his or her costs for the reinforcement.

The opposition's argument regarding Proposition 7 on the 11/82 ballot is totally irrelevant. Proposition 7 dealt with fire alarms and sprinklers. While loss of life and prop-

erty from a fire in an individual building is serious, it cannot compare with the potential for full-scale loss of life and property from several seconds of a major earthquake!

Under current law, if property is damaged or destroyed by misfortune or calamity, any timely reconstruction of that property is exempt from reassessment at a higher value. Why wait for an earthquake to level a building before giving the owner the tax break? Encourage reinforcement *before* the disaster! Discourage condemnation of irreplaceable housing and loss of property tax revenues! VOTE YES ON PROPOSITION 23!

**HERSCHEL ROSENTHAL**  
*State Senator, 22nd District*

**HAL BERNSON**  
*Councilman, 12th District, Los Angeles*

**STANLEY SCOTT**  
*Chairman, Seismic Safety Commission*